

REMARKS

Discussion of Rejection of Claims Under 35 U.S.C. 103(a)

The Examiner has rejected Claims 1-11 and 14-15 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Application No. 2002/0004729 by Zak in view of U.S. Patent No. 6,324,516 to Shults, et al. and U.S. Patent No. 5,900,883 to Cruces. The Examiner has rejected Claims 12 and 16-19 under 35 U.S.C. § 103(a) as unpatentable over Zak in view of Shults, et al., Cruces, and U.S. Patent Application No. 2001/0034618 by Kessler, et al.

In rejecting Claim 1, the Examiner has stated that Zak "discloses a medical emergency database configured to store at least clinical encounter data, patient demographic data and transport data wherein at least a portion of the data is input by medical emergency personnel (Zak; Paras. 19 and 37)." The Examiner has taken the position that Shultz discloses a compliance audit component in communication with the medical emergency database, wherein the compliance audit system is configured to check to ensure that data in the medical emergency database for a current encounter is consistent with a high risk compliance area. The Examiner has further opined that Cruces teaches prompting for correction of data where the data is not consistent, stating that "prompting teaching of Cruces could be combined in a system such as Zak."

Applicant respectfully submits that Claim 1 is patentable over the combination of Zak, Shults and Cruces, both because there would be no reason to combine the cited references, and because the combination fails to teach each limitation of Claim 1.

Claim 1 recites a computerized, integrated emergency medical transportation database system having a compliance audit component, the system comprising a medical emergency database configured to store at least clinical encounter data, patient demographic data and transport data, wherein at least a portion of the data is input by emergency medical personnel, and a compliance audit component in communication with the medical emergency database, wherein the compliance audit component is configured to check to ensure that data in the medical emergency database for a current encounter is consistent with a high risk compliance area, and prompt the emergency medical personnel for correction of the data where the data is not consistent.

The Examiner has argued that one of ordinary skill in the art would add the features of Shults to those of Zak with the motivation of providing a complete medical bill processing system that can check the entire bill against applicable rules. Applicant respectfully submits that the systems of Zak and Shults are directed to extremely different purposes. As previously discussed, Zak is directed to a simplified handheld system for recording medical data at an accident scene. Shults is directed to a system used by an insurance company where the system reviews received bills and is configured to authorize the insurance company to pay the minimum amount necessary to the healthcare provider.

Applicant respectfully submits that the alleged motivation merely recites features of the Shults system, without providing any reason for inclusion of the same in the handheld device of Zak. Not only is the handheld device of Zak not intended for use in processing bills, there is no bill to process, or to check against any rules. Zak is intended for use at an accident scene, and Shults is intended for use by an insurance company seeking to minimize bill payments. There would be no reason to include the features of Shults in the device of Zak, as these features would have no value to a person using the device of Zak at an accident scene, well before there is any bill to be analyzed.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *M.P.E.P. § 2143.01* The proposed modification of Zak would change the principle of operation of the device of Zak, as Zak is intended for use in recording data at an accident scene, whereas Shults is directed to features which would be used to analyze bills which have already been generated and provided to an insurance company. There would be no reason to incorporate these features into a handheld device such as that of Zak, as this analysis must be done after a bill is generated, which will necessarily occur well after data entry at the accident scene. The modified device would be no more useful for the intended users of Zak, and the other features of the Zak device would provide no benefit for users who would utilize the features of Shults, altering the principle of operation of both systems for no benefit to the users of either.

Furthermore, Applicant notes that neither Zak nor Shults teaches a compliance audit component configured to check to ensure that data in the medical emergency database for a

current encounter is consistent with a high risk compliance area, and prompt the emergency medical personnel for correction of the data where the data is not consistent. The Examiner has again cited to the portion of Shults directed to "flagging a line for further review if an item is not authorized," but as previously presented by Applicant, the further review consists not of data correction, but of a manual determination whether payment of that item is authorized.

In order to cure this deficiency, the Examiner has pointed to CruCs, which discusses a method for storing and retrieving image data stored across multiple storage media. In the cited portion, CruCs discusses prompting a user when an inserted diskette does not contain valid image data. Applicant first notes that this is not a prompt for correction of data, but merely the presenting of an error message to a user. The user can only insert a different diskette in response to this prompt, and cannot make any correction to the data on the diskette.

Even if this is considered to be a prompt for correction of data, there would be no reason to modify either Zak or Shults to include such a prompt for correction of data. As noted by the Examiner, there is no compliance audit component in Zak configured to check data. Thus, there would be no reason to prompt for correction of data in the system of Zak, as there would be no data check to trigger such a prompt, as conceded by the Examiner. Similarly, as the system of Shults is run by the insurance company, the only data the insurance company would have is the data which is already in the bill, and has already been imported into the system of Shults. The user at the insurance company would not have access to corrected data, and there would thus be no reason to prompt a user of the system of Shults for any such corrected data.

Thus, Applicant respectfully submits that Claim 1 is patentable over the cited references. Applicant also notes that the deficiencies of the combination of Zak, Shults, and CruCs are not cured by Kessler. As Claims 9 and 12 recite similar limitations, and Claims 1-8, 11 and 14-19 depend from at least one of Claims 1, 9, and 12, Applicant respectfully submits that Claims 2-12 and 14-19 are patentable for at least the reasons discussed with respect to Claim 1, in addition to providing further patentable distinction. Furthermore, Applicant does not necessarily agree with the Examiner's discussion of other limitations, both in the independent claims and in certain dependent claims.

No Disclaimers or Disavowals

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Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.


Conclusion

For at least the reasons discussed above, Applicant respectfully submits that Claims 1-12 and 14-19 are patentable over the cited art, and respectfully requests the withdrawal of all pending rejections and the allowance of the pending claims. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 
John M. Carson
Registration No. 34,303
Attorney of Record
Customer No. 20,995
(619) 235-8550

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